



# California Fair Political Practices Commission

October 7, 1988

Ed Barney  
General Supervisor of Recreation  
City of Daly City  
111 Lake Merced Boulevard  
Daly City, CA 94015

Re: Your Request For Advice  
Our File No. A-88-301

Dear Mr. Barney:

You have requested advice about application of Section 89001 of the Political Reform Act (the "Act")<sup>1/</sup>, as amended by recently enacted Proposition 73, to two City of Daly City publications: the Doelger Senior Center News and Program guide of July-September 1988 and the Department of Parks and Recreation Activities Guide of Summer 1988.

## QUESTION

Do both brochures comply with Section 89001 as amended by Proposition 73?

## CONCLUSION

The city may not refer to an elected officer by name, signature or photograph in a mass mailing. Therefore, the city may not publish the mayor's letter in the Department of Parks and Recreation Activities Guide. The city, however, may

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

publish a letter from an appointed official. Consequently, the city may publish a letter signed by the chairman of the Parks and Recreation Commission.

The city may list the names of elected officers in a standard roster-type listing, as long as names of all elected officers are in the same type size and typeface. The roster-type listings of city officials in the Doelger Senior Center News and Program brochure and the Parks and Recreation Activities Guide are permitted under amended Section 89001.

On December 6, 1988 the Commission plans to consider adoption of a permanent regulation concerning mass mailings. You should be aware that present advice may change after that date.

#### FACTS

The City of Daly City Doelger Senior Center publishes a News and Program guide. The July through September 1988 guide lists city councilmembers on page 13. Councilmembers' names appear in the same type size and typeface as all other persons listed on page 13. To our knowledge, the guide does not refer to any other elected officers.

The Department of Parks and Recreation published a Summer 1988 Activities Guide. On page 2, the activities guide has letters signed by the mayor of the city and the appointed chairman of the Parks and Recreation Commission. Otherwise, names of elected officers are listed in a roster-type listing in the same type size and typeface as other city officials.

#### ANALYSIS

California electors enacted Proposition 73 on June 7, 1988. Proposition 73 includes amendments to Sections 89001 and 82041.5 of the Act. These amendments took effect on June 8, 1988.

Section 89001 now reads:

89001. No newsletter or other mass mailing shall be sent at public expense.

Section 82041.5 reads:

82041.5. "Mass mailing" means two hundred or more substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry.

These two sections could be construed to ban all mailings at public expense of 200 or more substantially similar documents. On July 26, 1988, however, the Commission adopted an emergency regulation and approved interim advice that allows public agencies to send certain mass mailings at public expense. (Regulation 18901; Raye Advice Letters, No. A-88-220, copies enclosed.) In the following paragraphs we apply emergency Regulation 18901 and the interim advice letters to the seniors center program guide and the parks and recreation activities guide.

Prohibition Against Spending Public Moneys to Promote Elected Officials

After considering ballot arguments in favor of Proposition 73, statements by the proponents of the proposition, and wording of amended Section 89001, the Commission concluded that the intent of Section 89001 is to prohibit the use of public moneys for the purpose of sending out mass mailings that assist elected officers in pursuit of public office. (Raye Advice Letter, No. A-88-220, June 16, 1988.) Therefore, any reference to an elected officer is prohibited in a publication sent by a public agency to 200 or more persons in a calendar month, except the agency may list its elected officers in the standard letterhead or in a roster-type listing. The elected officers' names must appear in the same type size and typeface as other city officers listed in the letterhead or roster. (See emergency Regulation 18901; Raye Advice Letter, No. A-88-220, July 1, 1988.)

Applying these rules to the mailings you provided, we note that the city cannot publish a letter signed by an elected officer. Therefore, the mayor's letter on page 2 of the parks and recreation activities guide would not comply with Section 89001. The city cannot publish the mayor's letter.

Because the chairman of the Parks and Recreation Commission is an appointed official, the city may publish his letter in the parks and recreation activities guide. The roster-type listings of elected officers in the senior center program guide and the parks and recreation activities guide also are in compliance with Section 89001.

On December 6, 1988 the Commission plans to consider adoption of a permanent regulation regarding mass mailings. Present advice may change after December 6.

Ed Barney  
October 7, 1988  
Page -4-

I hope this letter provides satisfactory answers to your advice request. Please call me at (916) 322-5901 if you have any questions about this letter.

Sincerely,

Diane M. Griffiths  
General Counsel

  
By: Margarita Altamirano  
Counsel, Legal Division

DMG:MA:aa

Enclosures



*-Geiffiths*

DEPARTMENT OF PARKS AND RECREATION

*Jul 29 8 58 AM '88*

## CITY OF DALY CITY

111 LAKE MERCED BOULEVARD

PHONE: (415) 991-8002

DALY CITY, CA 94015

MICHAEL F. STALLINGS, DIRECTOR

July 27, 1988

Mr. John Larson, Chairman  
Fair Political Practices Commission  
428 J Street, Suite 800  
P. O. Box 807  
Sacramento, CA 95804

Dear Chairman Larson:

Enclosed you will find the Summer brochure for both the Recreation and Senior Services Divisions of the Parks and Recreation Department of the City of Daly City.

Please let us know if there is anything in either of these brochures which the Commission feels does not meet the standards of Proposition Number 73.

If you have any questions, please feel free to call me at (415) 991-8006.

Sincerely,

Ed Barney  
General Supervisor of Recreation

EB/em

Enclosures